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Attorneys for Defendant and Cross-Claimant,
GENUINE PARTS COMPANY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

11 CHRIS LANGER,

12 Plaintiff,

13 vs.

14 HOWARD BROTHERS; GENUINE PARTS
15 COMPANY, a Georgia Corporation; and
DOES 1-10,

16 Defendants.

17 GENUINE PARTS COMPANY,

18 Cross-Claimant,

19 vs.

20 HOWARD BROTHERS PARTNERSHIP; J.
21 ROBERT HOWARD; MICHAEL A.
22 HOWARD; and ROES 1 through 100, inclusive,

23 Cross-Defendants.

Case No. '14CV2173 JM DHB

**DEFENDANT GENUINE PARTS
COMPANY'S ANSWER TO PLAINTIFF'S
CIVIL COMPLAINT; DEMAND FOR
JURY TRIAL; CROSS-CLAIM; DEMAND
FOR JURY TRIAL**

24
25 TO: Center for Disability Access
26 Raymond G. Ballister, Jr., Esq.
27 Phyl Grace, Esq.
28 9845 Erma Road, Suite 300
San Diego, CA 92131

1 COME NOW defendant, GENUINE PARTS COMPANY, and appearing for itself alone
2 and no other persons, firm or entity, and answering the verified Complaint of plaintiff CHRIS
3 LANGER, admits, denies and alleges as follows:

4
5 **PARTIES:**

6 1. In responding to the allegations in paragraph 1, this answering defendant lacks
7 information and belief on the subject sufficient to answer said allegations, and based thereon,
8 denies each and every allegation contained therein.

9 2. In responding to the allegations in paragraph 2, this answering defendant admits
10 that the business is located at or about 1171 West Morena Boulevard, San Diego, California. As
11 to the remainder of paragraph 2, this answering defendant lacks information and belief sufficient
12 to answer said allegations, and based thereon, denies each and every allegation contained therein.

13 3. In responding to the allegations in paragraph 3, this answering defendant lacks
14 information and belief on the subject sufficient to answer said allegations, and based thereon,
15 denies each and every allegation contained therein.

16
17 **JURISDICTION & VENUE:**

18 4. In responding to the allegations in paragraph 4, this answering defendant lacks
19 information and belief on the subject sufficient to answer said allegations, and based thereon,
20 denies each and every allegation contained therein.

21 5. In responding to the allegations in paragraph 5, this answering defendant lacks
22 information and belief on the subject sufficient to answer said allegations, and based thereon,
23 denies each and every allegation contained therein.

24 6. In answering paragraph 6, this answering defendant lacks information and belief
25 on the subject sufficient to answer said allegations, and based thereon, denies each and every
26 allegation contained therein.

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FACTUAL ALLEGATIONS:

7. In responding to the allegations in paragraph 7, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

8. In responding to the allegations in paragraph 8, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

9. In responding to the allegations in paragraph 9, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

10. In responding to the allegations in paragraph 10, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

11. In responding to the allegations in paragraph 11, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

12. In responding to the allegations in paragraph 12, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

13. In responding to the allegations in paragraph 13, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

14. In responding to the allegations in paragraph 14, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

15. In responding to the allegations in paragraph 15, this answering defendant lacks information and belief on the subject sufficient to answer said allegations, and based thereon, denies each and every allegation contained therein.

1 16. In responding to the allegations in paragraph 16, this answering defendant lacks
2 information and belief on the subject sufficient to answer said allegations, and based thereon,
3 denies each and every allegation contained therein.

4 17. In responding to the allegations in paragraph 17, this answering defendant lacks
5 information and belief on the subject sufficient to answer said allegations, and based thereon,
6 denies each and every allegation contained therein.

7 18. In responding to the allegations in paragraph 18, this answering defendant lacks
8 information and belief on the subject sufficient to answer said allegations, and based thereon,
9 denies each and every allegation contained therein.

10 19. In responding to the allegations in paragraph 19, this answering defendant lacks
11 information and belief on the subject sufficient to answer said allegations, and based thereon,
12 denies each and every allegation contained therein.

13 20. In responding to the allegations in paragraph 20, this answering defendant lacks
14 information and belief on the subject sufficient to answer said allegations, and based thereon,
15 denies each and every allegation contained therein.

16
17 **FIRST CAUSE OF ACTION:**

18 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

19 (On behalf of plaintiff and against all defendants) (42 USC §§ 12101 FF)

20 21. In responding to paragraph 21, this answering defendant repeats and re-alleges the
21 responses to paragraphs 1 through 20 above, as though fully set forth herein.

22 22. In responding to the allegations in paragraph 22, this answering defendant lacks
23 information and belief on the subject sufficient to answer said allegations, and based thereon,
24 denies each and every allegation contained therein.

25 22(a) In responding to the allegations in paragraph 22, section (a), this
26 answering defendant lacks information and belief on the subject sufficient to
27 answer said allegations, and based thereon, denies each and every allegation
28 contained therein.

1 22(b) In responding to the allegations in paragraph 22, section (b), this
2 answering defendant lacks information and belief on the subject sufficient to
3 answer said allegations, and based thereon, denies each and every allegation
4 contained therein.

5 22(c) In responding to the allegations in paragraph 22, section (c), this
6 answering defendant lacks information and belief on the subject sufficient to
7 answer said allegations, and based thereon, denies each and every allegation
8 contained therein.

9 23. In responding to the allegations in paragraph 23, this answering defendant lacks
10 information and belief on the subject sufficient to answer said allegations, and based thereon,
11 denies each and every allegation contained therein.

12 24. In responding to the allegations in paragraph 24, this answering defendant lacks
13 information and belief on the subject sufficient to answer said allegations, and based thereon,
14 denies each and every allegation contained therein.

15 25. In responding to the allegations in paragraph 25, this answering defendant lacks
16 information and belief on the subject sufficient to answer said allegations, and based thereon,
17 denies each and every allegation contained therein.

18 26. In responding to the allegations in paragraph 26, this answering defendant lacks
19 information and belief on the subject sufficient to answer said allegations, and based thereon,
20 denies each and every allegation contained therein.

21 27. In responding to the allegations in paragraph 27, this answering defendant lacks
22 information and belief on the subject sufficient to answer said allegations, and based thereon,
23 denies each and every allegation contained therein.

24 28. In responding to the allegations in paragraph 28, this answering defendant lacks
25 information and belief on the subject sufficient to answer said allegations, and based thereon,
26 denies each and every allegation contained therein.

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1 29. In responding to the allegations in paragraph 29, this answering defendant lacks
2 information and belief on the subject sufficient to answer said allegations, and based thereon,
3 denies each and every allegation contained therein.

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5 **SECOND CAUSE OF ACTION:**
6 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

7 (On behalf of plaintiff and against all defendants)

8 (Civil Code §§ 51-53)

9 30. In responding to paragraph 30, this answering defendant repeat and re-alleges the
10 responses to paragraphs 1 through 29 above, as though fully set forth herein.

11 31. In responding to the allegations in paragraph 31, this answering defendant denies
12 each and every allegation contained therein.

13 32. In responding to the allegations in paragraph 32, this answering defendant denies
14 each and every allegation contained therein. Defendant specifically denies that it is responsible
15 for statutory damages sought therein.

16
17 **THIRD CAUSE OF ACTION:**
18 **VIOLATION OF THE CALIFORNIA DISABLED PERSONS ACT**

19 (On behalf of plaintiff and against all defendants) (Civil Code § 54-54.8)

20 33. In responding to paragraph 33, this answering defendant repeats and re-alleges the
21 responses to paragraphs 1 through 32 above, as though fully set forth herein.

22 34. In responding to the allegations in paragraph 34, this answering defendant denies
23 each and every allegation contained therein.

24 35. In responding to the allegations in paragraph 35, this answering defendant denies
25 each and every allegation contained therein. Defendant specifically denies that it is responsible
26 for statutory damages.

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FOURTH CAUSE OF ACTION:

NEGLIGENCE

(On behalf of plaintiff and against all defendants)

36. In responding to paragraph 36, this answering defendant repeats and re-alleges the responses to paragraphs 1 through 35 above, as though fully set forth herein.

37. In responding to the allegations in paragraph 37, this answering defendant denies each and every allegation contained therein. Defendant specifically denies that any alleged breach of duty has caused injury and damage.

PRAYER

38. Answering paragraph 1 of the prayer for relief, this answering defendant denies that plaintiff is entitled to said injunctive relief.

39. Answering paragraph 2 of the prayer for relief, this answering defendant denies that plaintiff is entitled to said damages.

40. Answering paragraph 3 of the prayer for relief, this answering defendant denies that plaintiff is entitled to said attorneys' fees, litigation expenses and costs of suit.

AFFIRMATIVE DEFENSES

41. The Complaint in the above-entitled matter being unverified, this answering defendant, pursuant to the provisions of Section 431.30(d) of the California Code of Civil Procedure, denies generally and specifically, each and every, all and singular, all of the allegations contained in said Complaint, each and every cause of action set forth therein, and the whole thereof, and further denies that plaintiff has sustained damages in the sum or sums alleged or in any other sum or sums whatsoever, or at all.

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**FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

42. Prior to and at the time of the incident as alleged in the Complaint, plaintiff, CHRIS LANGER, was negligent in the manner in which he conducted himself, which negligence proximately caused and contributed to the injuries, if any, and the damages, if any, claimed by plaintiff, thereby barring plaintiff from some or any recovery in this action.

**FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

43. The Complaint fails to set forth facts sufficient to constitute a cause of action against defendant, GENUINE PARTS COMPANY.

**FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

44. Prior to and at the time of the accident as alleged in the Complaint, plaintiff had knowledge of the risks involved, and with said knowledge, voluntarily and willingly assumed such risks, thereby barring plaintiff from some or any recovery herein.

**FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

45. Defendant places in issue the negligence or other tortious conduct of all persons, firms or entities which caused or contributed in any degree to the happening of the incident as alleged in the Complaint and to the injuries, if any, and the damages, if any, suffered by plaintiff as a result of said incident.

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**FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

46. That plaintiff has failed to act reasonably to mitigate the injuries, if any, and damages, if any, that are alleged in the Complaint. Such failure to mitigate on the part of the plaintiff bars or reduces his right to recover any damages against this answering defendant.

**FOR A SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

47. That the negligence, if any, or the conduct of this defendant (which allegation is made for purposes of this pleading only and shall not be considered an admission) was not a substantial factor in bringing about the plaintiff's alleged injuries and damages and, therefore, was not a contributing or proximate cause thereof.

**FOR A SEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

48. That in the event this defendant is found liable to plaintiff, said liability should be reduced by the percentage of fault attributable to plaintiff and all others; and that said liability for non-economic damages of this defendant is several only and not joint, so that this defendant shall be responsible only for the amount of non-economic damages allocated to it in direct proportion to its percentage of fault pursuant to the provisions of California Civil Code, Section 1431.2.

**FOR AN EIGHTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

49. Defendant is informed and believes that the Complaint, and each and every cause of action contained therein, is barred by applicable statutes of limitations, including, but not limited to, California Code of Civil Procedure, Sections 335.1 and 340(3).

**FOR A NINTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

50. Any acts committed by defendant, at the time of the alleged incident, were committed in the exercise of good faith and with probable cause, and were reasonable and justified under the circumstances.

**FOR A TENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

51. Any and all conduct of which plaintiff complains and which is attributable to this defendant was a just and proper exercise of management discretion on the part of this defendant and undertaken for a fair and honest reason and regulated by good faith under the circumstances then existing.

**FOR AN ELEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

52. The Court lacks subject matter jurisdiction over all claims asserted under the Americans With Disabilities Act, the Unruh Civil Rights Act, California Civil Code Section 51, et seq., or the Disabled Persons Act, California Civil Code Section 54, et seq., in that plaintiff has failed to satisfy the jurisdictional prerequisites for commencing a suit under any of these acts.

**FOR A TWELFTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

53. Plaintiff's causes of action for disability discrimination, and each of them, are barred by The Americans with Disabilities Act of 1990, 42 U.S.C. §§12101, et seq. (the "ADA"), the Disabled Persons Act, California Civil Code Section 54, et seq., and/or the Unruh Civil Rights Act, California Civil Code Section 51, et seq. in that plaintiff has failed to comply with the requirements of these Acts and has failed to exhaust administrative remedies pursuant to these Acts.

**FOR A THIRTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

54. Plaintiff must take nothing by way of his Complaint because plaintiff did not suffer an impediment to equal access to defendant's facility.

**FOR A FOURTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

55. Plaintiff's recovery is barred by the absence of any architectural barriers in this answering defendant's facility.

**FOR A FIFTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

56. Plaintiff's recovery is barred by the absence of any readily achievable manner of removal of any architectural barrier which may have existed.

**FOR A SIXTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

57. Plaintiff's recovery is barred by the inapplicability of the ADAAG to an "existing building" and the applicability of 28 CFR 36.304.

**FOR A SEVENTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

58. Plaintiff's recovery is barred by the absence of actual knowledge of the alleged architectural barriers precluding full and equal access to defendant's store or whether defendant would comply with ADA barrier removal requirements.

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**FOR AN EIGHTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

59. Any barrier which might have existed did not hinder, interfere with or impede plaintiff's full and equal use and enjoyment of the facilities.

**FOR A NINETEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

60. Plaintiff's cause of action for violation of California's Unfair Business Practices Act is barred on the ground that this answering defendant did not engage in ongoing conduct of an unlawful, fraudulent or unfair nature.

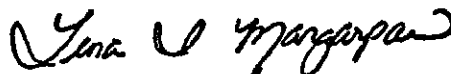
WHEREFORE, this answering defendant prays that:

1. Plaintiff takes nothing by reason of plaintiff's Complaint on file herein as against this answering defendant;
2. This answering defendant be dismissed or have judgment in its favor with costs of suit incurred herein;
3. Plaintiff's recovery against this defendant, if any, be diminished by an amount equal to the degree of culpability attributable to other persons or entities;
4. Attorneys' fees as provided by statute;
5. The Court grant such other and further relief as it deems just and proper.

Dated: October 8, 2014

FORD, WALKER, HAGGERTY & BEHAR

BY:



TINA I. MANGARPAN, ESQ.
Attorneys for Defendant and Cross-Claimant,
GENUINE PARTS COMPANY

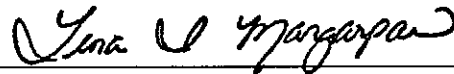
JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, this answering defendant hereby requests a jury trial.

Dated: October 8, 2014

FORD, WALKER, HAGGERTY & BEHAR

BY:



TINA I. MANGARPAN, ESQ.

Attorneys for Defendant and Cross-Claimant,

GENUINE PARTS COMPANY

CROSS-CLAIM OF GENUINE PARTS COMPANY FOR INDEMNITY,
EQUITABLE CONTRIBUTION AND DECLARATORY RELIEF
BY CROSS-CLAIMANT, GENUINE PARTS COMPANY
REQUEST FOR JURY TRIAL

COMES NOW Cross-Claimant, GENUINE PARTS COMPANY (hereinafter "Cross-Claimant"), and alleges as follows:

FIRST CAUSE OF ACTION
INDEMNITY
BY CROSS-CLAIMANT
AGAINST ALL CROSS-DEFENDANTS
AND ROES 1 THROUGH 100

1. The true names and capacities, whether individual, corporate, associate, representative, or otherwise of cross-defendants ROES 1 through 100, inclusive, are presently unknown to this cross-claimant, who therefore sues said cross-defendants by such fictitious names, and cross-claimant will seek leave of Court to amend this cross claim to insert the true names and capacities when they are ascertained. Cross-claimant is informed and believes and thereon alleges that each of the cross-defendants designated as a ROE, are legally responsible in some manner for the events and happenings herein referred to, and caused damage proximately thereby to the cross-claimant as alleged herein.

2. Cross-claimant, GENUINE PARTS COMPANY, is licensed to do business in the State of California.

3. Cross-defendant, HOWARD BROTHERS PARTNERSHIP, is licensed to do business in the State of California.

4. Cross-defendant, J. ROBERT HOWARD is believed to reside in the State of California.

5. Cross-defendant, MICHAEL A. HOWARD is believed to reside in the State of California.

1 6. Cross-defendants, ROES 1 through 100, inclusive, at all times herein alleged were
2 either residents of the State of California, or corporations, associations and/or partnerships
3 organized and existing by and under the laws of the State of California, and where applicable
4 were authorized and doing business in the State of California.

5 7. At all times mentioned herein, each of the cross-defendants was the agent and/or
6 employee of each of the remaining cross-defendant and was at all times acting within the course
7 and scope of said agency and employment.

8 8. That on or about July 31, 2014, plaintiff, CHRIS LANGER, filed a Complaint in
9 the United States District Court, Southern District, State of California, naming as defendants
10 HOWARD BROTHERS, GENUINE PARTS COMPANY, and DOES 1-10.

11 9. That plaintiff, CHRIS LANGER, has physical disabilities which require him to
12 use a wheelchair to travel in public.

13 10. Plaintiff has alleged that the subject property, located at 1171 West Morena
14 Boulevard in San Diego, California, lacks single compliant handicap-accessible parking spaces
15 for disabled persons seeking to use the facilities.

16 11. If cross-claimant, GENUINE PARTS COMPANY, is found to be negligent,
17 which negligence cross-claimant denies, then such negligence was passive, whereas the
18 negligence of cross-defendants, and each of them, was active.

19 12. Cross-claimant herein, GENUINE PARTS COMPANY, is accordingly entitled to
20 indemnification from cross-defendants, and each of them, for sums paid by cross-claimant by
21 way of settlement or judgment herein.

22 13. Cross-defendants, and each of them, are further liable to indemnify this cross-
23 claimant for all legal costs and fees, including attorney's fees, incurred in the defense of the
24 cross-claimant from the herein action.

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SECOND CAUSE OF ACTION
EQUITABLE CONTRIBUTION
BY CROSS-CLAIMANT
AGAINST ALL CROSS-DEFENDANTS
AND ROES 1 THROUGH 100

14. Cross-claimant hereby incorporates by reference paragraphs 1 through 11, inclusive, of this cross claim as though fully set forth. That at all times herein mentioned cross-defendants, and each of them, were negligent with the matters referenced in plaintiff's Complaint in that they negligently, carelessly, recklessly and unlawfully conducted itself with respect to the matters alleged in plaintiff's Complaint.

15. If the cross-claimant is found to have been in some manner liable for damages in the lawsuit, which liability is denied, such liability will be far in excess of the liability attributable to any fault of cross-claimant herein. Therefore, as a direct and proximate result of the acts and omissions of the cross-defendants, as herein alleged, cross-claimant is entitled to indemnity from each of said cross-defendants herein which is attributable to the comparative fault of each such cross-defendant.

16. Cross-claimant is informed and believes and on that basis alleges that the injuries and damages sustained by plaintiff, if any, were proximately caused and contributed to by the tortious conduct of cross-defendants and each of them.

17. Cross-claimant contends that in the event that cross-claimant is held liable for any alleged injuries or damages, that it is entitled to contribution from cross-defendants, and each of them, in that amount equal to the proportionate share of plaintiff's damages proximately caused by the tortious conduct of each cross-defendant.

18. By reason of the foregoing, cross-claimant is entitled to contribution from cross-defendants, and each of them, on a comparative fault basis, in an amount equal to the percentage which the tortious conduct or fault of cross-defendant bears to the total verdict or judgment.

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1 THIRD CAUSE OF ACTION
2 DECLARATORY RELIEF
3 BY CROSS-CLAIMANT
4 AGAINST ALL CROSS-DEFENDANTS
5 AND ROES 1 THROUGH 100

6 19. There presently exists a controversy between cross-claimant, on the one hand, and
7 cross-defendants, and each of them, on the other hand, in that cross-claimant contends that if
8 plaintiff sustained damages and injuries for the reasons as alleged in the Complaint, and is
9 awarded judgment against cross-claimant, then cross-claimant is entitled to indemnification to
10 recover over and against cross-defendants, and each of them, in an amount of any judgment or
11 judgments that may be entered against cross-claimant in the defense of this action, including
12 attorney's fees, costs and expenses for the preparation and investigation; whereas the cross-
13 defendants dispute and deny the contentions of the cross claim and assert that they have no
14 obligation to cross-claimant.

15 20. Accordingly, a declaration of this Court is necessary to determine the rights and
16 obligations existing between the cross-claimant and each cross-defendant, and the same can be
17 determined and declared in the present action thus avoiding circuitry of action and multiple suits.

18
19 FOURTH CAUSE OF ACTION
20 BREACH OF CONTRACT
21 BY CROSS-COMPLAINANT
22 AGAINST ALL CROSS-DEFENDANTS
23 AND ROES 1 THROUGH 100

24 21. Cross-complainant hereby incorporates by reference paragraphs 1 through 18,
25 inclusive, of this Cross-Complaint as though fully set forth.

26 22. Cross-Complainant alleges that prior to and at the time of the alleged incident
27 which gives rise to this litigation, there existed a lease agreements entered into between cross-
28 complainant, Genuine Parts Company, and each cross-defendant herein for lease and

1 maintenance of certain property. In the lease agreement, each cross-defendant was responsible
2 for ensuring that the premises were compliant with the American Disabilities Act ("ADA"). In
3 particular, the pertinent provision of the lease agreement can be summarized as follows:

4 23. Pursuant to the Lease Agreement entered into between J. Robert Howard, Michael A.
5 Howard, and the Howard Brothers Partnership and Genuine Parts Company pertaining to a
6 property located at 1171 West Morena Boulevard, San Diego, California, J. Robert Howard is
7 responsible for ensuring that the premises is compliant with the ADA. Specifically, Section 2.3
8 of the lease states in pertinent part as follows:

9 "Compliance with Covenants, Restrictions and Building Code. Lessor warrants
10 that any improvements ... on or in the Premises which have been constructed or
11 installed by Lessor or with Lessor's consent or at Lessor's direction shall comply
12 with all applicable covenants or restrictions of record and all applicable building
13 codes, regulations and ordinances in effect on the Commencement Date."

14 Section 2.9 states:

15 "Lessor or such other person(s) as Lessor may appoint shall have exclusive
16 control and management of the Common Areas."

17 24. Cross-complainant has fully performed all conditions, covenants and promises
18 required by it to be performed in accordance with the terms and conditions of the Lease
19 Agreement referenced above.

20 25. Cross-complainant is informed and believes and thereon alleges that cross-
21 defendants, and each of them have breached the Lease and continue to be in breach by refusing
22 to comply with provisions of the ADA.

23 26. The above-described breach of the Lease have harmed and continue to cause harm
24 to Cross-complainant. Cross-complainant has been unnecessarily forced thereby to incur great
25 legal expense, including attorney fees and costs, for the preparation, investigation and defense of
26 the underlying action.

27 WHEREFORE, this cross-claimant prays for judgment against cross-defendants, and
28 each of them, as follows:

1 1. That the Court determine the legal rights and duties that exist between cross-
2 claimant and cross-defendants, and each of them;

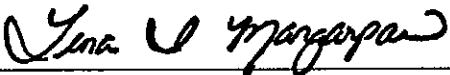
3 2. That should plaintiff or any other party in this lawsuit recover judgment or a
4 settlement against this cross-claimant then cross-claimant be awarded judgment in a like amount
5 over and against cross-defendants, and each of them, plus costs of defense incurred by cross-
6 claimant including court costs, settlement costs, reasonable attorneys' fees and expense for
7 preparation and investigation;

8 3. For the costs of suit incurred herein and for attorney's fees and other costs
9 defending this action; and

10 4. For such other and further relief as the Court may deem just and proper.

11
12 Dated: October 8, 2014

FORD, WALKER, HAGGERTY & BEHAR

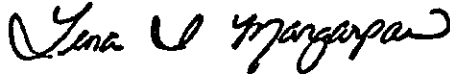
13
14 BY: 
15 TINA I. MANGARPAN, ESQ.
16 Attorneys for Defendant and Cross-Claimant,
17 **GENUINE PARTS COMPANY**

18
19 **DEMAND FOR JURY TRIAL**

20 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, this answering defendant
21 hereby requests a jury trial.

22
23 Dated: October 8, 2014

FORD, WALKER, HAGGERTY & BEHAR

24
25 BY: 
26 TINA I. MANGARPAN, ESQ.
27 Attorneys for Defendant and Cross-Claimant,
28 **GENUINE PARTS COMPANY**

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PROOF OF SERVICE BY MAIL – F.R.Civ.P. 5)

UNITED STATES DISTRICT COURT }
SOUTHERN DISTRICT OF CALIFORNIA }

I am employed in the aforesaid county; I am over the age of eighteen years and not a party to the within entitled action; my business address is: One World Trade Center, Twenty-Seventh Floor, Long Beach, California 90831-2700.

On October 8, 2014, I served the within: DEFENDANT GENUINE PARTS COMPANY'S ANSWER TO PLAINTIFF'S CIVIL COMPLAINT; DEMAND FOR JURY TRIAL; CROSS-CLAIM; DEMAND FOR JURY TRIAL

on the interested parties in said action,

by personally delivering it to the person(s) indicated below in the manner as provided in FRCivP5(b);

by depositing it in the United States Mail at Long Beach, California, in a sealed envelope with the postage fully prepaid to the following;

X (BY ELECTRONIC SERVICE) I caused such document to be Electronically Served on all parties through the **United States District Court – Central District** for the above-entitled case. This service complies with CCP §1010.6. The file transmission was reported as complete and a copy of the "Filing Receipt" page will maintained with the original document in our office.

Ray Ballister, Jr., Esq.

Mark Potter, Esq.

Phyl Grace, Esq.

Dennis Price, Esq.

Center for Disability Access

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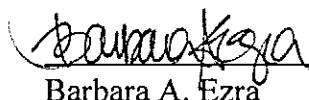
email: phylg@potterhandy.com

I hereby certify that I am a member of the Bar of the United States District Court, Central District of California.

X I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

X I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on October 8, 2014, at Long Beach, California.


Barbara A. Ezra